

Message Text

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ACTION EB-08

INFO OCT-01 EA-10 ISO-00 L-03 CIAE-00 COME-00 DODE-00

DOTE-00 FMC-01 INR-10 NSAE-00 CG-00 DLOS-09

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FM AMEMBASSY SEOUL

TO SECSTATE WASHDC 891

INFO AMEMBASSY TAIPEI

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E.O. 11652: N/A

TAGS: EWWT, KS

SUBJ: OCEAN SHIPPING - ROK CONTAINERSHIP ROUTES

REF: A) SEOUL 3291, B) STATE 104566

1. WE HAVE NOT READ THE TEXT OF THE KOREAN EMBASSY'S LETTER TO THE FEDERAL MARITIME COMMISSION CONCERNING THE APPLICABILITY OF THE KOREAN CARGO PREFERENCE LAW (TITLE: MARINE TRANSPORTATION PROMOTION LAW) TO US VESSELS. WE WOULD, NEVERTHELESS, LIKE TO POINT OUT THAT IN PRACTICE, AT LEAST, THE CONTENTION IN THE LETTER THAT THE LAW "DOES NOT APPLY" TO US VESSELS IS OPEN TO QUESTION.

2. THERE IS NO SPECIFIC EXEMPTION OF US FLAG VESSELS IN THE LAW, THE PRESIDENTIAL DECREE IMPLEMENTING THE LAW, OR THE REGULATIONS ISSUED PURSUANT THERETO BY THE MINISTRY OF TRANSPORTATION. IN PRACTICE, WE ARE INFORMED BY US SHIPPING LINES' REPS HERE, THE PROVISIONS OF THE LAW REQUIRING THE USE OF KOREAN BOTTOMS IS NOT APPLIED TO US SHIPS, PROVIDED THE CARGO IS BEING SHIPPED BETWEEN KOREA AND THE UNITED STATES. BUT, IF THE CARGO IS DESTINED FROM KOREA TO A THIRD COUNTRY, THE SHIPPER IS REQUIRED

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TO OBTAIN A WAIVER IF HE WISHES TO USE A US VESSEL.

3. WE ASSUME US BOTTOMS ENJOY THE WAIVER EXEMPTION BECAUSE OF ARTICLE XIX OF THE US-KOREA TREATY OF FRIENDSHIP, NAVIGATION AND COMMERCE. THE CARGE PREFERENCE ARTICLE OF THE LAW, ARTICLE 11, GRANS EXCEPTION IN THE CASE OF VIOLATION OF "INTERNATIONAL TREATIES OR

AGREEMENTS".

4. THE FOLLOWING IS AN EXAMPLE OF THE WORKING OF THE LAW. A US CONTAINER LINE USES A FEEDER VESSEL BETWEEN JAPAN AND KOREA. EVEN THOUGH THE SHIP IS A KOREAN FLAG VESSEL UNDER CHARTER TO THE US LINE, BY KOREAN REGULATION, IT IS CONSIDERED TO BE A US FLAG VESSEL, AND MORE IMPORTANTLY, AN EXPORTER MUST OBTAIN A WAIVER IN ORDER TO SHIP CARGO ON IT.

5. WE ARE POUCHING AN INFORMAL TRANSLATION OF ARTICLE 11 OF THE LAW AND MOT ORDINANCE WHICH OUTLINES THE WAIVER PROCEDURE.

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